

FALLS ET AL. -- 08/983,394
Client/Matter: 037033-0314075

REMARKS

With this Amendment claims 72-91 and 93-132 remain pending in the application with claims 72-78, 99, 117, 125, and 127-131 being amended, while claim 92 is canceled and claims 1-71 remain canceled. Entrance of this Amendment and reconsideration of the outstanding rejections is respectfully requested.

Telephonic Interview

Applicants are appreciative of the telephonic interview with the Examiner on May 3, 2006. This Amendment attempts to fully incorporate the comments and suggestions made by the Examiner during the interview and to place the application in condition for allowance.

Allowable Subject Matter

On page 4 of the Office Action, claims 72-91 and 93-312 are deemed allowable over the prior art of record. Applicants are appreciative of the indication of allowable subject matter and have fully complied with all outstanding rejections in order to place the entire application in condition for allowance.

Rejection – 35 USC § 101

On page 2 of the Office Action, claims 117 and 127-131 are rejected as being directed to non-statutory subject matter.

In response, consistent with the Examiner's suggestions, claims 117 and 127 have been amended to recite a computer readable medium in a form that is consistent with established criteria for claiming statutory subject matter. Additionally, dependent claims 128-131 have been amended to accurately depend from claim 127. Accordingly, withdrawal of the rejection is respectfully requested.

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Rejection Under 35 U.S.C. §112

On page 2 of the Office Action, claims 72-78 and 127-131 have been rejected as being indefinite under 35 USC § 112.

In particular, claims 72 and 77 were rejected as being unclear as to whether the claims were directed to a printed label, or the combination of a printed label and a shelf. During the telephonic interview, the Examiner indicated that the claims were allowed based upon the interpretation that the claims were directed to the combination of the label and the shelf. Accordingly, claims 72 and 77 are amended to recite a combination.

Claims 79 and 99 are rejected since the word "planogram" is deemed "unclear." However, the specification of the subject application makes clear that the term is an established term of art. That is, the specification states that "[a]nother known store practice is the establishment of plan-o-grams. In a store that has established plan-o-grams, every section of shelving is memorialized, typically in list form, regarding placement of each item of merchandise. Theoretically, nothing is left to chance in a store that has established plan-o-grams." (See the Specification, page 5, lines 16-33.) Additionally, the word "planogram" or "plan-o-gram" is found in at least nine of the patents cited of record in the subject application (i.e., U.S. Patent Nos. 4821291; 5241467; 5245534; 5374815; 5383111; 5461561; 5467474; 5532465; and 5583487). Accordingly, no amendment to the claims has been made.

Claim 99 is rejected since the term "a graphic edge" is deemed "unclear." In response, the claim has been amended as set forth above to recite a "shelf edge."

Claim 125 is rejected for indefiniteness related to the terms "product" and "at least one or more products." In response, the claim has been amended to clarify that which is being claimed as the "product."

Claim 127 was rejected since it was deemed unclear as to whether the claim was directed to a database or a database in combination with a shelf. In response, the claim has been amended to clarify that the claim is directed to a computer readable medium.

In light of the amendments and the comments above, withdrawal of the rejection is respectfully requested.

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Rejection Under 35 U.S.C. §103

On page 3 of the Office Action, claim 92 stands rejected under 35 USC 103 as being obvious over the prior art disclosed in Applicants' specification. This rejection is now moot in view of the cancellation of claim 92.

Conclusion

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

Please charge any fees associated with the submission of this paper to Deposit Account Number 00909 (Ref. No.: 037033-031407). The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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